

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC.,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-293-JRG
vs.)	
)	JURY TRIAL DEMANDED
SAMSUNG ELECTRONICS CO., LTD.;)	(Lead Case)
SAMSUNG ELECTRONICS AMERICA,)	
INC.; SAMSUNG SEMICONDUCTOR)	
INC.,)	
)	
Defendants.)	

NETLIST, INC.,)	
33)	
)	
Plaintiff,)	
)	
vs.)	Case No. 2:22-cv-294-JRG
)	
MICRON TECHNOLOGY, INC.;)	JURY TRIAL DEMANDED
MICRON SEMICONDUCTOR)	
PRODUCTS, INC.; MICRON)	
TECHNOLOGY TEXAS LLC,)	
)	
Defendants.)	

**NETLIST, INC.'S MOTION TO EXPEDITE BRIEFING ON NETLIST'S
MOTION TO COMPEL MICRON DEFENDANTS TO DE-DESIGNATE PORTIONS
OF DEPOSITION TRANSCRIPT OF SCOTT CYR (DKT. 274)**

Pursuant to Local Rule CV-7(e), Plaintiff Netlist Inc. (“Netlist”) respectfully files this motion to expedite briefing on Netlist’s Motion to Compel Micron Defendants to De-Designate Portions of Deposition Testimony of Scott Cyr filed on December 13, 2023. Dkt. 274 (“Motion to De-designate”). The Motion was filed on Wednesday December 13, and Netlist requests that Micron’s response be due on Tuesday, December 19, 2023.

Netlist’s Motion narrowly asked Micron to de-designate certain portions of testimony given by Micron’s corporate representatives on the general state of art relating to Netlist’s patents asserted

in this Action. Netlist requested the de-designation of such testimony to be submitted as evidence in connection with defendants Micron and Samsung's joint IPR proceeding as to the asserted U.S. Patent No. 7,619,912 ("the '912 patent") (IPR2022-00615). During the lead-to-lead meet and confer, Micron refused to provide any basis on which the testimony should be designated other than it does not want the testimony used in the IPR proceeding. Micron has acknowledged that it can file a response earlier than the current two week deadline but is refusing to do so.

An expedited briefing schedule is necessary in light of the current schedule of the IPR proceedings. Specifically, the PTAB instituted the review of the '912 patent on June 7, 2023. Netlist submitted the Patent Owner Response on August 10, 2023. The PTAB has set an oral argument on the '912 patent for January 31, 2024.

After Netlist submitted its Response, Micron offered its corporate representative Mr. Scott Cyr for deposition on November 20, 2023, where Mr. Cyr offered testimony inconsistent with Micron's IPR positions. The day after the deposition, on November 21, Netlist requested PTAB for leave to submit portions of Mr. Cyr's deposition as supplemental information in the IPR relating to the '912 patent. Ex. 1 at 1 (11-22-2023 email to PTAB from Jonathan Lindsay) (requesting "a conference call with the Board to seek leave to move to admit testimony given by Micron's designated corporate representative in district court proceedings on the '912 patent that is highly material to, and inconsistent with, positions taken by the Petitioners before the PTAB.").

While Netlist's request is still pending, the PTAB has set an oral argument on the '912 patent for January 31, 2024. Because the window for the Board to consider the information is closing quickly, Netlist hereby moves for an expedited briefing schedule on the motion to designate so that Micron's response motion is due December 19, 2023.

Dated: December 14, 2023

Respectfully submitted,

/s/ Jason G. Sheasby

Jason G. Sheasby

Samuel F. Baxter
Texas State Bar No. 01938000
sbaxter@mckoolsmith.com
Jennifer L. Truelove
Texas State Bar No. 24012906
jtruelove@mckoolsmith.com

MCKOOL SMITH, P.C.

104 East Houston Street Suite 300
Marshall, TX 75670
Telephone: (903) 923-9000
Facsimile: (903) 923-9099

Jason G. Sheasby (*pro hac vice*)
jsheasby@irell.com
Annita Zhong, Ph.D. (*pro hac vice*)
hzhong@irell.com
Andrew J. Strabone (*pro hac vice*)
astrabone@irell.com
Thomas C. Werner (*pro hac vice*)
twerner@irell.com
Yanan Zhao (*pro hac vice*)
yzhao@irell.com
Michael W. Tezyan (*pro hac vice*)
mtezyan@irell.com

IRELL & MANELLA LLP

1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067
Tel. (310) 277-1010
Fax (310) 203-7199

Philip Warrick
New York Bar No. 4471413
pwarrick@irell.com

IRELL & MANELLA LLP

750 17th Street NW, Suite 850
Washington, DC 20006
Tel. (310) 777-6512
Fax (310) 317-7252

Attorneys for Plaintiff Netlist, Inc.

CERTIFICATE OF CONFERENCE

I hereby certify that, on December 8, 2023, Micron refused to agree to a definitive date for expedited briefing.

/s/ Jason Sheasby
Jason Sheasby

CERTIFICATE OF SERVICE

I hereby certify that, on December 14, 2023, a copy of the foregoing was served to all counsel of record of Micron defendants via the Court's CM/ECF System.

/s/ Yanan Zhao
Yanan Zhao